

107TH CONGRESS
1ST SESSION

H. R. 2952

To ensure the orderly development of coal, coalbed methane, natural gas, and oil within a designated Dispute Resolution Area in the Powder River Basin, Wyoming, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2001

Mrs. CUBIN introduced the following bill; which was referred to the Committee on Resources

A BILL

To ensure the orderly development of coal, coalbed methane, natural gas, and oil within a designated Dispute Resolution Area in the Powder River Basin, Wyoming, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Powder River Basin
5 Resource Development Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) COALBED METHANE.—The term “coalbed
2 methane” has the meaning given that term in sec-
3 tion 1339(p)(2) of the Energy Policy Act of 1992
4 (42 U.S.C. 13368(p)(2)).

5 (2) COMMON AREA.—The term “common area”
6 means an area in the Basin in which all or a portion
7 of a Federal coal lease (including any area of State
8 or private coal within a logical mining unit with the
9 Federal coal lease) overlaps all or a portion of an oil
10 and gas lease or right to develop.

11 (3) FEDERAL COAL LEASE; FEDERAL OIL AND
12 GAS LEASE.—The terms “Federal coal lease” and
13 “Federal oil and gas lease” mean a lease in the
14 Basin issued pursuant to the Mineral Leasing Act
15 (30 U.S.C. 181 et seq.) or the Mineral Leasing Act
16 for Acquired Lands (30 U.S.C. 351 et seq.).

17 (4) FEDERAL COAL LESSEE.—The term “Fed-
18 eral coal lessee” means the holder of a Federal coal
19 lease.

20 (5) NON-FEDERAL OIL AND GAS LEASE OR
21 RIGHT TO DEVELOP.—The term “non-Federal oil
22 and gas lease or right to develop” means a lease for
23 or right to develop oil and gas in the Basin provided
24 by a State or private owner of the resources.

1 (6) OIL AND GAS DEVELOPER.—The term “oil
2 and gas developer” means the holder of an oil and
3 gas lease or right to develop.

4 (7) OIL AND GAS LEASE OR RIGHT TO DE-
5 VELOP.—The term “oil and gas lease or right to de-
6 velop” means a Federal oil and gas lease in the
7 Basin or non-Federal oil and gas lease or right to
8 develop in the Basin.

9 (8) OWNERS OF ANY INTEREST IN THE OIL
10 AND GAS LEASE OR RIGHT TO DEVELOP.—The term
11 “owners of any interest in the oil and gas lease or
12 right to develop” means persons who own the work-
13 ing interest, lease interest, operating interest, min-
14 eral interest, royalty interest, or any other interest
15 in the oil and gas lease or right to develop, and any
16 other persons who might receive compensation for
17 unavoidable fixed expenses under an order con-
18 cerning the oil and gas lease or right to develop
19 issued pursuant to section 9(d).

20 (9) POWER RIVER BASIN; BASIN.—The term
21 “Powder River Basin” or “Basin” means the area
22 in the State of Wyoming designated as the “Dispute
23 Resolution Area” on maps entitled “Powder River
24 Basin, Dispute Resolution Area”, dated September

1 10, 2001, and on file in the Wyoming State Office
2 of the Bureau of Land Management.

3 (10) SECRETARY.—The term “Secretary”
4 means the Secretary of the Interior.

5 **SEC. 3. PARTIES ENCOURAGED TO ENTER INTO WRITTEN**
6 **AGREEMENT.**

7 In any common area, the Federal coal lessee and oil
8 and gas developer, subject to applicable Federal and State
9 laws, regulations, and lease terms, are encouraged to enter
10 into a written agreement that details operations and as-
11 signs or assesses costs or compensation for the concurrent
12 or sequential development of those resources.

13 **SEC. 4. NEGOTIATIONS CONCERNING DEVELOPMENT PRI-**
14 **ORITY FOR CERTAIN OPERATIONS IN THE**
15 **BASIN.**

16 (a) OBLIGATION TO PROVIDE WRITTEN NOTICE OF
17 CONFLICT.—Whenever a Federal coal lessee or an oil and
18 gas developer determines that its Federal coal lease (or
19 a logical mining unit including the Federal coal lease) or
20 its oil and gas lease or right to develop is located in a
21 common area, and, pursuant to a mining plan approved
22 by, or submitted for the approval of, the Secretary, mining
23 operations or facilities in support of mining for coal on
24 the Federal coal lease or the logical mining unit will be
25 located within the common area, the Federal coal lessee

1 or the oil and gas developer shall deliver written notice
2 of the determination to the other party and the Secretary
3 no later than 240 days before the date on which the min-
4 ing operations or construction of the mine support facili-
5 ties is projected by the approved or proposed mining plan
6 to commence in the common area.

7 (b) OBLIGATION TO NEGOTIATE.—Promptly after
8 providing the notice referred to in subsection (a), the party
9 that provided the notice shall seek to negotiate a written
10 agreement with the other party that resolves any conflict
11 between the development of gas or oil and development
12 of coal in the common area.

13 **SEC. 5. PETITION FOR RELIEF.**

14 (a) SUBMISSION OF PETITION.—

15 (1) IN GENERAL.—If notice is submitted timely
16 pursuant to section 4(a) and the Federal coal lessee
17 and the oil and gas developer seek to engage in ne-
18 gotiations, but fail to reach agreement, pursuant to
19 section 4(b), the Federal coal lessee or the oil and
20 gas developer may file a petition for relief in the
21 United States district court for the district of Wyo-
22 ming and serve the other party on any date which
23 is not less than 180 days before the date on which
24 the mining operations or construction of the mine
25 support facilities is projected by the approved or

1 proposed mining plan to commence in the common
2 area.

3 (2) INFORMATION REQUIREMENTS.—The Sec-
4 retary, by regulation, shall establish the require-
5 ments for the information to be submitted with the
6 petition.

7 (b) JOINDER OF PARTIES.—All owners of any inter-
8 est in the oil and gas lease or right to develop and in the
9 Federal coal lease or logical mining unit, including the
10 Secretary, identified by the petitioner, the Secretary, or
11 themselves shall be joined in the proceedings established
12 pursuant to this Act. Failure to timely join a party shall
13 not extend deadlines imposed by this Act, but the court
14 shall take all necessary steps to insure that no party is
15 prejudiced by late joinder.

16 (c) PARTIES' RESPONSE TO PETITION.—The non-
17 Federal respondent or respondents may provide to the
18 Secretary a response to the petition within 30 days after
19 the date of filing of the petition for relief pursuant to sub-
20 section (a)(1). The Secretary may require the petitioner
21 and the non-Federal respondent or respondents to submit
22 such documents or provide such testimony, or both, as the
23 Secretary deems appropriate within 60 days of such date
24 of filing.

1 **SEC. 6. SECRETARY'S RESPONSE TO PETITION.**

2 (a) IN GENERAL.—Within 90 days after the date of
3 filing of the petition for relief pursuant to section 5(a)(1),
4 the Secretary shall take the actions required by this sec-
5 tion.

6 (b) INITIAL DETERMINATIONS.—The Secretary shall
7 determine, with petitioner having the burden of proof—

8 (1) whether a common area exists; and

9 (2) whether the approved or proposed mining
10 plan provides for mining operations to occur, or
11 mine support facilities to be constructed, in any por-
12 tion of the common area.

13 (c) LEASE SUSPENSION.—If the Secretary makes af-
14 firmative determinations pursuant to paragraphs (1) and
15 (2) of subsection (b), the Secretary shall suspend all or
16 any portion of any Federal oil and gas lease, including
17 the application of such a lease to any geographical area
18 or zone or reservoir, to accommodate development of the
19 coal resource in the common area during the period begin-
20 ning on a date no later than the commencement date re-
21 ferred to in section 5(a)(1) and ending on the effective
22 date of an order issued pursuant to section 9(d).

23 (d) SECRETARIAL REPORT.—The Secretary shall—

24 (1) not delegate the making of determinations
25 pursuant to this section;

1 (2) report the determinations made pursuant to
 2 this section and any suspension made pursuant to
 3 subsection (c), including the administrative record
 4 therefor, to the court in which the petition for relief
 5 is filed pursuant to section 5(a)(1); and

6 (3) provide the petitioner and respondents with
 7 copies of the report and record.

8 **SEC. 7. COURT'S INITIAL RESPONSE TO PETITION.**

9 (a) RECEIPT OF SECRETARIAL REPORT.—The court
 10 in which the petition is filed pursuant to section 5(a)(1)
 11 shall have exclusive jurisdiction to receive and review the
 12 report of the Secretary required by section 6(d), and the
 13 determinations made and any action taken by the Sec-
 14 retary pursuant to section 6.

15 (b) PARTIES' OBJECTIONS TO REPORT.—

16 (1) DEADLINE FOR FILING.—The petitioner
 17 and respondents shall have 30 days after the date on
 18 which the report of the Secretary is filed with the
 19 court pursuant to section 6(d) in which to file with
 20 the court any objection to any determination of the
 21 Secretary required by section 6.

22 (2) DETERMINATION BY COURT.—If any objec-
 23 tion is filed pursuant to paragraph (1), the court
 24 shall, within 60 days after receipt of the report of
 25 the Secretary pursuant to section 6(d), make the de-

1 termination that is the subject of the objection on
2 the basis of the administrative record filed with the
3 report and in accordance with the applicable require-
4 ments of section 6.

5 (3) APPROVAL OF SECRETARY'S DETERMINA-
6 TION.—If no objection is filed pursuant to para-
7 graph (1), the determinations of the Secretary re-
8 quired by section 6 shall be final and approved by
9 the court in the order issued pursuant to subsection
10 (c) or subsection (d).

11 (c) COURT ORDER.—Within 90 days after the date
12 of receipt of the report of the Secretary pursuant to sec-
13 tion 6(d), the court, except as provided in subsection (d),
14 shall issue an order, to expire on the effective date of an
15 order issued pursuant to section 9(d), that—

16 (1) suspends all or any part of any non-Federal
17 oil and gas lease or right to develop, including the
18 application of such a lease or right to any geo-
19 graphical area or reservoir, in the common area in
20 accordance with the determination of the Secretary
21 pursuant to section 6 or in accordance with the de-
22 termination of the court pursuant to subsection
23 (b)(2) of this section; and

24 (2) if required by a determination of the court
25 pursuant to subsection (b)(2), terminates a Federal

1 oil and gas lease suspension imposed by the Sec-
2 retary pursuant to section 6, or imposes a suspen-
3 sion of a Federal oil and gas lease, or both, in ac-
4 cordance with the determination; and

5 (3) fixes the date upon which the Federal coal
6 lessee may commence mining operations or construc-
7 tion of mine support facilities in the common area,
8 which may be no later than the commencement date
9 referred to in section 5(a)(1).

10 (d) TERMINATION OF PROCEEDING.—If the Sec-
11 retary makes a negative determination pursuant to section
12 6(b), or if the court makes a negative determination pur-
13 suant to an objection under subsection (b)(2) of this sec-
14 tion to affirmative determinations of the Secretary under
15 section (6)(b), the court shall issue an order terminating
16 the proceeding under this Act.

17 **SEC. 8. EXPERTS' APPOINTMENT AND REPORT; COURT RE-**
18 **VIEW AND HEARING.**

19 (a) APPOINTMENT PROCEDURE.—Within 30 days
20 after the date of issuance of an order pursuant to section
21 7(c), to assist the court in making the determinations pur-
22 suant to section 9—

23 (1) the Federal coal lessee and the oil and gas
24 developer shall each appoint a person who is an ex-

1 pert in appraising the value of, and right to develop,
2 gas or oil; and

3 (2)(A) persons appointed under paragraph (1)
4 shall agree upon and appoint a third person with
5 such expertise; or

6 (B) if no agreement is reached on a third per-
7 son by the end of such period, the court shall ap-
8 point such person.

9 (b) COMPENSATION.—The Federal coal lessee and
10 the oil and gas developer shall each be responsible for pay-
11 ment of one-half of the compensation for and costs of the
12 experts in the performance of their duties under this Act.

13 (c) INFORMATION AND DATA.—

14 (1) REQUIREMENT.—The Federal coal lessee,
15 the oil and gas developer, and the Secretary—

16 (A) shall each submit to the experts, with-
17 in 30 days after the date of completion of their
18 appointment pursuant to subsection (a), all in-
19 formation and data in the possession of such
20 party that is pertinent to the determinations to
21 be made pursuant to section 9; and

22 (B) shall each submit to the experts there-
23 after any additional pertinent information and
24 data in the possession of such party that the
25 experts request, in writing, from such party.

1 (2) CONFIDENTIALITY.—Except as provided in
2 paragraph (3), the court shall ensure that any infor-
3 mation and data submitted to the experts pursuant
4 to paragraph (1) shall have the protection against
5 disclosure that is applicable to them by law and the
6 Federal rules of civil procedure and evidence.

7 (3) AVAILABILITY TO PARTIES.—All informa-
8 tion and data submitted to the experts pursuant to
9 paragraph (1) shall be available for review by all
10 parties unless otherwise ordered by the court.

11 (d) SUBMISSION OF BRIEFS AND HEARING.—

12 (1) BRIEFS.—Within 45 days after the date of
13 completion of appointment of the experts pursuant
14 to subsection (a), all parties may submit to the court
15 briefs concerning the determinations to be made
16 pursuant to section 9.

17 (2) TESTIMONY.—Within 60 days after the date
18 of completion of appointment of the experts pursu-
19 ant to subsection (a), the experts may, or if re-
20 quested by the petitioner or a respondent shall, re-
21 ceive testimony from all parties concerning the de-
22 terminations to be made pursuant to section 9.

23 (e) EXPERTS' REPORT.—Within 120 days after the
24 date of completion of appointment of the experts pursuant
25 to subsection (a), the experts shall submit to the court

1 a written report providing in detail their recommendations
 2 on the determinations to be made pursuant to section 9.

3 (f) REVIEW OF EXPERTS' REPORT.—The court shall
 4 make the determinations required by section 9 after re-
 5 viewing the report of the experts submitted pursuant to
 6 subsection (e) and after holding a hearing in which the
 7 parties to the proceeding shall have the opportunity to ex-
 8 amine the experts and provide to the court evidence or
 9 arguments to support or contravene the recommendations
 10 of the report.

11 **SEC. 9. COURT'S FINAL RESPONSE TO PETITION: VALU-**
 12 **ATION CONCERNING ECONOMICALLY RECOV-**
 13 **ERABLE OIL OR GAS RESOURCES LOST OR**
 14 **DELAYED, SUSPENSION OR TERMINATION,**
 15 **AND PAYMENT ORDER.**

16 (a) IN GENERAL.—Within 210 days after the date
 17 of issuance of an order pursuant to section 7(c), the court
 18 shall take the actions required by this section.

19 (b) SUSPENSION OR TERMINATION DETERMINA-
 20 TION.—

21 (1) DETERMINATION.—The court shall deter-
 22 mine that, as a result of the order or any action of
 23 the Secretary, all or any part of the oil and gas lease
 24 or right to develop, or the application of such lease

1 or right to any geographical area or zone or res-
2 ervoir, should be—

3 (A) suspended during any remaining pe-
4 riod in which mining operations or support fa-
5 cilities exist in the common area; or

6 (B) terminated.

7 (2) TERMS OF SUSPENSION.—Any determina-
8 tion to suspend pursuant to paragraph (1) shall,
9 wherever possible or appropriate, limit the suspen-
10 sion or phase the suspension to permit the optimum
11 development of the oil or gas prior to the time at
12 which the mining operations would reach the loca-
13 tion within the common area that is subject to the
14 suspension or particular phase of the suspension.

15 (3) CONDITIONS FOR TERMINATION.—Any de-
16 termination to terminate pursuant to paragraph (1)
17 shall be made only if the court finds that—

18 (A) the economically recoverable oil and
19 gas resources subject to compensation pursuant
20 to subsection (c) would be entirely lost or ren-
21 dered impracticable to produce as a con-
22 sequence of the mining operations in the com-
23 mon area; and

1 (B) such resources constitute all of the
2 economically recoverable resources subject to
3 the oil and gas lease or right to develop.

4 (c) COMPENSATION DETERMINATION.—

5 (1) DETERMINATION FOR SUSPENSION.—If the
6 court makes a determination to suspend pursuant to
7 subsection (b), the court shall determine the fol-
8 lowing:

9 (A) The amount of any net income that
10 will not be realized due to delay in development
11 of economically recoverable resources of oil or
12 gas, other than coalbed methane, from the com-
13 mon area, whether or not such development has
14 commenced.

15 (B) The amount of any net income that
16 will not be realized, whether or not development
17 of coalbed methane has commenced, due to—

18 (i) delay in development of economi-
19 cally recoverable resources of coalbed
20 methane in the common area;

21 (ii) the loss of any economically recov-
22 erable resources of coalbed methane from
23 the coal to be extracted by the mining op-
24 erations in the common area; and

1 (iii) the loss of any economically re-
2 coverable resources of coalbed methane un-
3 derlying any area that is subject to the oil
4 and gas lease and right to develop associ-
5 ated with the common area and that ex-
6 tends outward from each exposed coal face
7 of the mining operations for a distance
8 from which drainage of such resources is
9 established to the satisfaction of the court.

10 (C) Any of the following damages that will
11 be incurred by the owners of any interest in the
12 oil and gas lease or right to develop as a con-
13 sequence of the suspension:

14 (i) Any unavoidable fixed expenses of
15 shutting in production from, maintenance
16 of, and testing of an existing well.

17 (ii) Any unavoidable fixed expenses
18 necessary to achieve postsuspension recov-
19 ery of all or certain economically recover-
20 able resources of oil or gas in the common
21 area (including expenses of relaying pipe-
22 line and all other expenses reasonably re-
23 lated to reestablishing any existing oil or
24 gas production), except that if the court
25 determines that such unavoidable fixed ex-

1 penses will exceed the net income to be de-
2 rived from the resources, the court shall
3 determine the amount of such net income
4 and lost royalties on oil or gas not pro-
5 duced.

6 (iii) Expenses associated with strand-
7 ed costs of drilling equipment and facili-
8 ties.

9 (iv) Any lost royalties on oil or gas
10 not produced by the oil and gas developer.

11 (v) Any lost income associated with
12 temporarily shutting in production from
13 wells outside of the common area as need-
14 ed for reconnection to a gathering system
15 or pipeline to market.

16 (2) LIMITATION.—The determinations made
17 pursuant to paragraph (1) shall not include any de-
18 crease in net income or damages resulting from loss
19 of any oil or gas resources that occurred before the
20 date of the determinations and is caused by mining
21 within or outside of the common area on the Federal
22 coal lease or logical mining unit that is the subject
23 of the common area determination made pursuant to
24 section 6(b)(1) or section 7(b)(2).

1 (3) DETERMINATION FOR TERMINATION.—If
2 the court makes a determination to terminate pursu-
3 ant to subsection (b), the court shall determine the
4 amount of any net income that will not be realized
5 and any damages due to the loss of, or imprac-
6 ticability to produce, the economically recoverable re-
7 sources of oil or gas subject to the oil and gas lease
8 or right to develop in the same manner as provided
9 in paragraph (1).

10 (4) ENSURING AGAINST DUPLICATE COMPENSA-
11 TION.—In determining the amount of net income
12 that will not be realized pursuant to paragraph (1)
13 or paragraph (3) and the sum of money to be
14 awarded pursuant to subsection (d), the court shall
15 ensure to the best of its ability that the Federal coal
16 lessee is not required to pay for the same gas or oil
17 lost, delayed in development, or rendered impracti-
18 cable to develop to more than one oil and gas devel-
19 oper or the owners of any interest in more than one
20 oil and gas lease or right to develop.

21 (d) COURT ORDER.—The court shall issue an order
22 that—

23 (1) suspends all or any part of, suspends in
24 phases parts of, or terminates the oil and gas lease
25 or right to develop, including any applicable payment

1 or production obligations, in accordance with the de-
2 termination made pursuant to subsection (b); and

3 (2) awards to the oil and gas developer and all
4 other owners of any interest in the oil and gas lease
5 or right to develop, as their interests may appear, a
6 sum of money from the Federal coal lessee equal to
7 the net income amount and damages determined
8 pursuant subsection (c).

9 **SEC. 10. DISBURSEMENT OF PAYMENTS TO OIL AND GAS**
10 **DEVELOPERS.**

11 (a) PAYMENT ALTERNATIVES.—At the election of the
12 oil and gas developer, the sum of money awarded by the
13 court pursuant to section 9(d)(2) shall be—

14 (1) paid in full within 60 days after the date of
15 issuance of the order pursuant to section 9(d); or

16 (2) divided into the number of tons of recover-
17 able coal in the common area and paid in per ton
18 increments as the coal is mined, in accordance with
19 subsections (b) and (c).

20 (b) PAYMENT SCHEDULE.—The Federal coal lessee
21 shall make the payments required by subsection (a)(2) on
22 a quarterly basis in advance based on the Federal coal
23 lessee's estimate of the number of tons of coal to be mined
24 in the common area during the following quarter, and
25 shall add or subtract an amount to or from the advance

1 payment for the next quarter to reflect the coal mined
2 from the common area that is actually sold or transferred.

3 (c) FINAL PAYMENT.—If the mining necessary to
4 make full payment of the sum of money awarded by the
5 court in accordance with subsection (a)(2) does not occur
6 within the 5-year period beginning on the date of issuance
7 of the court order pursuant to section 9(d), the unpaid
8 balance shall be paid within 60 days after the expiration
9 of such period.

10 **SEC. 11. TERMINATION OF OIL AND GAS LEASE SUSPEN-**
11 **SION.**

12 (a) NOTIFICATION OF COURT.—If the court issues an
13 order to suspend all or any part of the oil and gas lease
14 or right to develop pursuant to section 9(d)—

15 (1) the Federal coal lessee shall notify the court
16 and the oil and gas developer when the portion of
17 the common area subject to the order issued pursu-
18 ant to section 9(d) is no longer required for mining
19 operations or support facilities; and

20 (2) within 120 days after the date of receipt by
21 the court of the notification pursuant to paragraph
22 (1), or within 60 days prior to the date on which the
23 period established by the court in the order issued
24 pursuant to section 9(d) concludes, the oil and gas
25 developer may petition the court for an order that

1 terminates the suspension and fixes the date and
2 terms on which the oil and gas developer may re-
3 sume operations within the portion of the common
4 area subject to the order issued pursuant to section
5 9(d).

6 (b) COURT ORDER TO TERMINATE SUSPENSION OF
7 LEASE OR RIGHT TO DEVELOP.—The court shall issue
8 the order sought under subsection (a)(2) within 30 days
9 after the date of receipt of the petition pursuant to sub-
10 section (a)(2).

11 (c) TERMINATION OF LEASE OR RIGHT TO DE-
12 VELOP.—

13 (1) RIGHT TO PETITION.—If the oil and gas de-
14 veloper determines that, as a consequence of the
15 order of the court issued pursuant to section 7(c)
16 and an order to suspend all or any part of the oil
17 and gas lease or right to develop pursuant to section
18 9(d), the conditions described in section 9(b)(3)
19 exist, the oil and gas developer may petition the
20 court to terminate the oil and gas lease or right to
21 develop.

22 (2) TIME FOR FILING PETITION.—The petition
23 referred to in paragraph (1) may be filed any time
24 after issuance of the order of the court pursuant to
25 section 9(d), but not later than 120 days after the

1 date of receipt by the court of the notification pursu-
2 ant to subsection (a)(1).

3 (3) DETERMINATION AND AWARD.—Upon re-
4 ceipt of a petition pursuant to paragraph (1), the
5 court shall make a determination whether to issue
6 an order to terminate the oil and gas lease or right
7 to develop and award an additional amount from the
8 Federal coal lessee to the oil and gas developer and
9 all other owners of any interest in the oil and gas
10 lease or right to develop, as their interests may ap-
11 pear, in accordance with the procedures and dead-
12 lines established in section 5(a) and sections 8
13 through 10.

14 **SEC. 12. SUPPLEMENTAL PETITION FOR RELIEF.**

15 (a) PETITION SUBMITTAL.—

16 (1) IN GENERAL.—If, at any time after the
17 issuance of an order pursuant to section 9(d), the
18 mining plan that is the basis of the order is altered
19 in a manner that may warrant suspension of an ad-
20 ditional part or all of, or termination of, the oil and
21 gas lease or right to develop, or an increase in the
22 sum of money that was awarded under the order, or
23 both, either the Federal coal lessee or the oil and
24 gas developer may, if necessary after compliance
25 with the requirements of section 4, file a supple-

1 mental petition for relief with the court to amend
2 the order.

3 (2) REQUIREMENTS.—The requirements of sec-
4 tion 5(a) and sections 6 through 10 shall apply to
5 the supplemental petition submitted pursuant to
6 paragraph (1).

7 (b) COURT ORDER.—

8 (1) DETERMINATION.—Upon completion of the
9 process required by subsection (a)(2), the court shall
10 make a determination whether to—

11 (A) suspend an additional part or all of, or
12 terminate, the oil and gas lease or right to de-
13 velop as described in section 9; and

14 (B) award an additional sum of money cal-
15 culated in accordance with section 9.

16 (2) ORDER.—The court shall issue any order
17 resulting from the determinations made pursuant to
18 paragraph (1) within 90 days after the date of filing
19 of the supplemental petition for relief.

20 **SEC. 13. APPEAL OF COURT ORDERS.**

21 (a) NON-APPEALABLE ORDERS.—Any order issued
22 pursuant to section 7(c), section 7(d), section 9(d)(1), or
23 section 12(b)(1)(A) is final and may not be appealed.

24 (b) APPEALABLE ORDERS.—Any order issued pursu-
25 ant to section 9(d)(2), section 11(b), section 11(c)(3), or

1 section 12(b)(1)(B) may be appealed, but the appeal, and
2 any disposition thereof, may not affect any order referred
3 to in subsection (a).

4 **SEC. 14. SUSPENSION TERMS.**

5 (a) FEDERAL LEASE SUSPENSION TERMS.—If all or
6 any part of any Federal oil and gas lease is suspended
7 in whole or in part by the Secretary or the court under
8 this Act—

9 (1) the lessee shall not be required to pay any
10 rental for the lease for the period of the suspension;
11 and

12 (2)(A) if the lease is in the primary term, the
13 term of the lease shall be extended by the length of
14 the period of the suspension plus one year; or

15 (B) the lease shall not terminate due to lack of
16 production for the period of the suspension plus one
17 year.

18 (b) NON-FEDERAL LEASE SUSPENSION TERMS.—If
19 any non-Federal oil and gas lease or right to develop is
20 suspended in whole or in part by the court under this Act,
21 the court shall establish terms for the suspension com-
22 parable to the terms set forth in subsection (a).

23 **SEC. 15. LIABILITY LIMITATION.**

24 Except as provided in a written agreement reached
25 pursuant to section 4(b), or reached on or after September

1 1, 1999, and before the date of enactment of this Act and
2 approved by the Bureau of Land Management, or as pro-
3 vided by an order of the court pursuant to this Act, nei-
4 ther the Federal coal lessee subject to the agreement or
5 order nor the United States shall be liable to the oil and
6 gas developer of, or any owner of an interest in, any oil
7 and gas lease or right to develop subject to the agreement
8 or order for any decrease in or depletion of, or any impair-
9 ment of the ability to recover, any gas or oil subject to
10 the oil and gas lease or right to develop that may result
11 from the development of any coal on the Federal coal
12 leasehold or within a logical mining unit that includes the
13 Federal coal lease.

14 **SEC. 16. CREDIT AGAINST ROYALTIES.**

15 (a) IN GENERAL.—If a Federal coal lessee is required
16 by a written agreement reached pursuant to section 4(b),
17 or reached on or after September 1, 1999, and before the
18 date of the enactment of this Act and approved by the
19 Bureau of Land Management, or by a court order issued
20 pursuant to section 9(d), section 11(c)(3), or section
21 12(b)(2)(B), to pay an amount for loss of economically
22 recoverable Federal coalbed methane resources due to
23 mining operations or for suspension of all or part of, or
24 termination of, a Federal oil and gas lease for coalbed
25 methane located within the lands designated as “Dispute

1 Resolution Area” on the maps referred to in section 2(1),
 2 any amount so paid after the date of enactment of this
 3 Act shall be credited against any royalties on production
 4 otherwise due from the Federal coal lessee or any affiliate
 5 thereof under section 7(a) of the Mineral Leasing Act (30
 6 U.S.C. 207(a)) for any lease of Federal coal issued under
 7 that Act, or under the Mineral Leasing Act for Acquired
 8 Lands (30 U.S.C. 351 et seq.) for any lease of Federal
 9 coal that is subject to that Act.

10 (b) TREATMENT OF ROYALTIES TO THE STATE.—

11 The Secretary shall pay to the State of Wyoming 50 per-
 12 cent of the amount of any credit against royalties provided
 13 under subsection (a)—

14 (1) in the same manner as if the credit against
 15 royalties had been paid in money as royalties and
 16 distributed under section 35(a) of the Mineral Leas-
 17 ing Act (30 U.S.C. 193(a)); and

18 (2) from amounts received as royalties, rentals,
 19 or bonuses derived from leases issued under this Act
 20 that otherwise would be deposited as miscellaneous
 21 receipts under section 35(a) of the Mineral Leasing
 22 Act (30 U.S.C. 193(a)).

23 **SEC. 17. DENIAL OF USE AS PRECEDENT.**

24 Nothing in this Act shall be applicable to any lease
 25 under the Mineral Leasing Act or the Mineral Leasing Act

1 for Acquired Lands for any mineral, or shall be applicable
2 to, or supersede any statutory or common law otherwise
3 applicable in, any proceeding in any Federal or State court
4 involving development of any mineral outside of any com-
5 mon area and within or outside of the Powder River
6 Basin.

7 **SEC. 18. REGULATIONS.**

8 The Secretary shall promulgate any regulations nec-
9 essary to implement this Act by not later than 120 days
10 after the date of enactment of this Act.

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